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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,243	11/06/2001	John T. McHale IV	16944-8455	1052

21888 7590 10/24/2003

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EXAMINER

BUCHANAN, CHRISTOPHER R

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 10/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/993,243

Applicant(s)

MCHALE ET AL.

Examiner

Christopher R Buchanan

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 18 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,7-25,29,30,32-47 and 54-73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7-25,29,30,32-47 and 54-73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 5, 7-23, and 57-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller in view of Kurland et al.

With regard to claim 1, Mueller discloses a patron service system (abstract, Fig. 1) for serving a patron that includes at least one patron station (10) configured to electronically display a plurality of menu items (abstract, col. 10 line 29) and at least one advertisement (col. 9 line 34+) and an establishment server (13) in communication with each patron station that is configured to receive and process order input for later fulfillment of the order (col. 4 line 37+). The patron station is configured to receive order input from the patron corresponding to an order from the menu (col. 10 line 30+). It is common practice for networked servers to communicate instructions necessary for operation. With regard to claims 57-60, it is common practice in the field to base advertisement selections upon a variety of rules, including order input, patron information, predetermined conditions, products ordered, and so on. With regard to claim 5, the system includes a central server (13) in communication with a plurality of servers (16, 28, 56, Fig. 1). With regard to claims 9-11 and 23, it is common practice in

the field to base advertisement selections upon a variety of quantities, including order input, patron information, and so on. With regard to claims 13-15, it is common practice in the field to store supplements associated with a given advertisement (a link to a webpage or coupons, for example) and to keep records regarding patron selections. With regard to claims 17-20 and 22, it is common practice in the field to create and store files for individual patrons that include ID information and historical behavioral information.

The patron service system of Mueller differs from the current invention in that it does not include a data base for storing a plurality of advertisements, wherein the establishment server can select one of the advertisements for display [claim 1], a means for changing the content of the data base [claim 3], stations configured to receive demographic information from patrons and send it to the server [claims 7 and 8], patron stations configured to receive selection input and to communicate the input to the server [claim 12], stations configured to receive patron identity and to communicate the input to the server [claim 16], and a server in communication with a plurality of selectable music selections [claim 21].

With regard to claim 1, Kurland discloses a patron service system (10, Fig. 1, abstract) that includes a data base (22, 32) for storing a plurality of entertainment selections (could be advertisements) and an establishment server that can select one of the selections for display (abstract). With regard to claim 3, the system includes a means for changing the content of the data base and a processor and program for selecting a given selection to be displayed (col. 2 line 45+). With regard to claims 7 and

8, the stations are configured to receive demographic information from patrons and send it to the server (see Fig. 4). With regard to claim 12, the patron stations are configured to receive selection input and to communicate the input to the server (see Fig. 4). With regard to claim 16, the patron stations are configured to receive patron identity input and to communicate the input to the server (see Fig. 4). With regard to claim 21, the server is in communication with a plurality of selectable music selections (col. 5 line 50+).

It would be obvious to one skilled in the art to modify the patron service system of Mueller to include a data base for storing a plurality of advertisements, wherein the establishment server can select one of the advertisements for display, a means for changing the content of the data base, a processor and program for selecting a given advertisement, stations configured to receive demographic information from patrons and send it to the server, patron stations configured to receive selection input and to communicate the input to the server, stations configured to receive patron identity and to communicate the input to the server, and a server in communication with a plurality of selectable music selections, as taught by Kurland, to provide a means by which customer wait time can be utilized to provide additional income to the establishment serving the customer.

3. Claims 24, 25, 29, 30, 32-45, 61, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller in view of Kurland et al.

Mueller discloses a patron service system (abstract, Fig. 1) for serving a patron that includes at least one patron station (10) configured to electronically display a plurality of menu items (abstract, col. 10 line 29) and at least one advertisement (col. 9 line 34+) and an establishment server (13) in communication with each patron station that is configured to receive and process order input for later fulfillment of the order (col. 4 line 37+). The patron station is configured to receive order input from the patron corresponding to an order from the menu (col. 10 line 30+). The system of Mueller includes a central server (13) in communication with a plurality of servers via a network (16, 28, 56, Fig. 1). It is common practice for networked servers to communicate instructions and to store items necessary for operation. It is common practice in the field to base advertisement selections upon a variety of quantities, including order input, patron information, predetermined conditions, and so on. It is common practice in the field to store supplements associated with a given advertisement (a link to a webpage or coupons, for example) and to keep records regarding patron selections. It is common practice in the field to create and store files for individual patrons that include ID information and historical behavioral information. It is common practice in the field to update inventory information based on sales or usage information for particular items. It is common practice in the field to base advertisement selections upon a variety of rules, including order input, patron information, predetermined conditions, and so on.

The patron service system of Mueller differs from the current invention in that it does not include a data base for storing a plurality of advertisements, wherein the establishment server can select one of the advertisements for display, a processor and

program for selecting a given advertisement, patron stations configured to receive selection input and to communicate the input to the server, stations configured to receive patron identity and to communicate the input to the server, and a server in communication with a plurality of selectable music.

Kurland discloses a patron service system (10, Fig. 1, abstract) that includes a data base (22, 32) for storing a plurality of entertainment selections (could be advertisements) and an establishment server that can select one of the selections for display (abstract). The system includes a processor and program for selecting a given selection to be displayed (col. 2 line 45+). The patron stations are configured to receive selection input and to communicate the input to the server (see Fig. 4). The patron stations are configured to receive patron identity input and to communicate the input to the server (see Fig. 4). The server is in communication with a plurality of selectable music selections (col. 5 line 50+).

It would be obvious to one skilled in the art to modify the patron service system of Mueller to include a data base for storing a plurality of advertisements, wherein the establishment server can select one of the advertisements for display, a processor and program for selecting a given advertisement, patron stations configured to receive selection input and to communicate the input to the server, stations configured to receive patron identity and to communicate the input to the server, and a server in communication with a plurality of selectable music, as taught by Kurland, to provide a means by which customer wait time can be utilized to provide additional income to the establishment serving the customer.

4. Claims 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller alone.

Mueller discloses a patron service system (abstract, Fig. 1) for serving a patron that includes a central server (13) and a plurality of local servers (16, 28, 56) connected by a network, a plurality of patron stations (10) connected to the central server and configured to electronically display a plurality of menu items (abstract, col. 10 line 29) and at least one advertisement (col. 9 line 34+), the establishment server (13) in communication with each patron station is configured to receive and process order input for later fulfillment of the order (col. 4 line 37+). The patron station is configured to receive order input from the patron corresponding to an order from the menu (col. 10 line 30+). It would be obvious to one skilled in the art that the computers could be arranged in a variety of manners to provide the necessary processing and storage. It is common practice in the field to base advertisement selections upon a variety of rules, including order input, patron information, predetermined conditions, and so on.

5. Claims 54-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller alone.

Mueller discloses a patron service system (abstract, Fig. 1) for serving a patron that includes a central server (13) and a plurality of local servers (16, 28, 56) connected by a network, a plurality of patron stations (10) connected to the central server and configured to electronically display a plurality of menu items (abstract, col. 10 line 29)

and at least one advertisement (col. 9 line 34+), the establishment server (13) in communication with each patron station is configured to receive and process order input for later fulfillment of the order (col. 4 line 37+). The patron station is configured to receive order input from the patron corresponding to an order from the menu (col. 10 line 30+). It would be obvious to one skilled in the art that the computers could be arranged in a variety of manners to provide the necessary processing and storage. It is common practice in the field to base advertisement selections upon a variety of rules, including order input, patron information, predetermined conditions, and so on. It is common practice for networked servers to communicate instructions necessary for operation.

6. Claims 65-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller in view of Kurland et al.

Mueller discloses a patron service system (abstract, Fig. 1) for serving a patron that includes at least one patron station (10) configured to electronically display a plurality of menu items (abstract, col. 10 line 29) and at least one advertisement (col. 9 line 34+) and an establishment server (13) in communication with each patron station that is configured to receive and process order input for later fulfillment of the order (col. 4 line 37+). The patron station is configured to receive order input from the patron corresponding to an order from the menu (col. 10 line 30+). The system of Mueller includes a central server (13) in communication with a plurality of servers via a network (16, 28, 56, Fig. 1). It is common practice for networked servers to communicate

instructions and to store items necessary for operation. It is common practice in the field to base advertisement selections upon a variety of quantities, including order input, patron information, predetermined conditions, and so on. It is common practice in the field to store supplements associated with a given advertisement (a link to a webpage or coupons, for example) and to keep records regarding patron selections. It is common practice in the field to create and store files for individual patrons that include ID information and historical behavioral information. It is common practice in the field to update inventory information based on sales or usage information for particular items. It is common practice in the field to base advertisement selections upon a variety of rules, including order input, patron information, predetermined conditions, and so on.

The patron service system of Mueller differs from the current invention in that it does not include a data base for storing a plurality of advertisements, wherein the establishment server can select one of the advertisements for display, a processor and program for selecting a given advertisement, and patron stations configured to receive selection input and to communicate the input to the server.

Kurland discloses a patron service system (10, Fig. 1, abstract) that includes a data base (22, 32) for storing a plurality of entertainment selections (could be advertisements) and an establishment server that can select one of the selections for display (abstract). The system includes a processor and program for selecting a given selection to be displayed (col. 2 line 45+). The patron stations are configured to receive selection input and to communicate the input to the server (see Fig. 4). The patron

Art Unit: 3627

stations are configured to receive patron identity input and to communicate the input to the server (see Fig. 4).

It would be obvious to one skilled in the art to modify the patron service system of Mueller to include a data base for storing a plurality of advertisements, wherein the establishment server can select one of the advertisements for display, a processor and program for selecting a given advertisement, patron stations configured to receive selection input and to communicate the input to the server, stations configured to receive patron identity and to communicate the input to the server, as taught by Kurland, to provide a means by which customer wait time can be utilized to provide additional income to the establishment serving the customer.

Response to Arguments

7. Applicant's arguments filed August 18, 2003 have been fully considered but they are not persuasive. Applicant's arguments have been addressed in the rejection above.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 3627

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Buchanan whose telephone number is 703-306-5782. The examiner can normally be reached on M-T 9-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 703-308-5183. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

CRB

Christopher Buchanan
October 16, 2003

Robert P. Olszewski 10/23/03

ROBERT P. OLSZEWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600